

Appln. No. 09/867,197  
Response dated July 19, 2005  
Reply to Office Action of April 19, 2005  
Docket No. 6169-250

IBM Docket No. BOC9-2001-0015

### **REMARKS/ARGUMENTS**

These remarks are made in response to the Office Action of April 19, 2005 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due.

In the Office Action, the Examiner has rejected claims 1-4, 7-9, 11-14 and 17-20 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,839,667 to Reich (Reich). Claims 5, 6, 10, 15, and 16 have been rejected under the judicially-created doctrine of double patenting as being unpatentable over claim 1 of Reich in view of claim 1 of U.S. Patent No. 5,649,060 to Ellozy, *et al.* (Ellozy).

In response, Applicants submit herewith an executed Terminal Disclaimer for the Reich reference to overcome the obviousness-type double patenting rejection asserted against claims 1-4, 7-9, 11-14 and 17-20. Responsive to the Terminal Disclaimer, Applicants request the rejections to claims 1-4, 7-9, 11-14 and 17-20 be withdrawn.

Claims 5, 6, 10, 15, and 16 are rejected based upon Reich in view of Ellozy. Because of the filed terminal disclaimer, Reich should be removed as a reference. Ellozy alone fails to teach each of the claimed limitations of claims 4 and 5 (dependant upon claim 1), claim 10 (an independent claim that includes limitations of claims 1 and 5), and claims 15 and 16 (dependant upon claim 11). Ellozy has been referenced as teaching the limitation of using conditional probabilities and fails to provide teachings (in absence of Reich) for each of the claimed limitations. Accordingly, the removal of Reich as a reference through the Terminal Disclaimer results in claims 5, 6, 10, 15, and 16 being in an allowable condition. Consequently, Applicants respectfully request the rejections to claims 5, 6, 10, 15, and 16 be withdrawn.

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the

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undersigned (direct line 954 759 8937) if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion. For example, it does not appear as though a terminal disclaimer is needed for Ellozy in absence of Reich to place the current application in an allowable condition. Should an allowance, however, be conditioned upon such a terminal disclaimer, Applicants urge the Examiner to call the Applicants so that prosecution of the application can be expedited.

Respectfully submitted,

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